

# Passports: Current Regulations

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## Summary

Prior to 2007, little or no documentation was required to enter the United States from Canada, Mexico, Bermuda, or the Caribbean. In December 2004, with the 9/11 Commission recommending tighter borders to help prevent another terrorist attack, Congress passed the Western Hemisphere Travel Initiative (WHTI), which now requires passports for anyone entering the United States. As of mid-2009, approximately 30% of American citizens hold a passport.

After the January 2007 implementation of phase I of the new passport regulations (requiring passports when entering by *air*), the Department of State was deluged with passport applications. The time necessary to get a passport expanded from the typical four to six weeks to several months, ruining many Americans' travel plans.

On January 31, 2008, another change occurred. Government-issued proof of identity and citizenship documents are required to enter the United States from Canada, Mexico, Bermuda, and the Caribbean, according to the Department of Homeland Security. People under the age of 18, however, are allowed to present only proof of citizenship, such as a birth certificate.

Phase II, implemented on June 1, 2009, adds to the existing requirements that travelers have passports for all land and sea crossings. U.S. or Canadian children under the age of 16, however, are allowed to present an original or copy of their birth certificate or other proof of citizenship. Groups of U.S. or Canadian children under the age of 19, when traveling in church or school groups, social groups, or sports teams, and when entering under adult supervision, also can present birth certificates or other proof of citizenship, rather than a passport. This report will be updated as events warrant.

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## Introduction

After the attacks of September 11, 2001, the 9/11 Commission Report asserted:

Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States; nor should Canadians or Mexicans. Currently U.S. persons are exempt from carrying passports when returning from Canada, Mexico, and the Caribbean. The current system enables non-U.S. citizens to gain entry by showing minimal identification. The 9/11 experience shows that terrorists study and exploit America's vulnerabilities.<sup>1</sup>

Following the Commission's advice, Congress initiated the Western Hemisphere Travel Initiative (WHTI) to fulfill a mandate by Congress in the 9/11 Commission Implementation Act of 2004 (Division B of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458, Section 7209, signed December 17, 2004). The measure requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, "deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship," for all travelers entering the United States.

## Current U.S. Passport Requirements and Costs<sup>2</sup>

On January 31, 2008, the Department of Homeland Security again tightened travel regulations with border states by requiring that all U.S. and Canadian citizens, 19 or older, present both a government-issued proof of identity (such as a driver's license) and proof of citizenship (such as a birth certificate) to cross a border by land or sea into the United States. For Americans and Canadians under the age of 18, only proof of citizenship (such as a birth certificate) is necessary. For U.S. citizens, U.S. government-issued passports and passport cards also are acceptable.<sup>3</sup> Canadians can also use a government-issued passport. Both Americans and Canadians can present a valid NEXUS, SENTRI, or FAST card.<sup>4</sup> Non-citizens can present a permanent residency card.

Travelers from Bermuda can enter the United States by presenting a passport issued by the government of Bermuda or the United Kingdom. For Mexican citizens, including Mexican children, a passport and visa or border crossing card are required to enter the United States by land, sea, or air.

As of February 1, 2008, the State Department increased passport fees by \$3.00. The total cost of applying for a U.S. passport for those over 16 is \$100—a \$75 application fee and \$25 execution fee. The total cost for children under 16 is \$85—a \$60 application fee and \$25 execution fee. An additional \$60 per application is required if expedited service is requested. Fees for a passport card are \$20 for adults and \$10 for children under 16, with an additional \$25 execution fee for

<sup>1</sup> *The 9/11 Commission Report*, July 17, 2004, p. 388.

<sup>2</sup> As stated on the websites for the Department of Homeland Security and Department of State: [http://www.dhs.gov/xnews/releases/pr\\_1182350422171.shtm](http://www.dhs.gov/xnews/releases/pr_1182350422171.shtm) or [http://travel.state.gov/travel/cbpmc/cbpmc\\_2223.html](http://travel.state.gov/travel/cbpmc/cbpmc_2223.html).

<sup>3</sup> The passport card is a credit card-size machine readable card usable for land and sea border crossings. The Department of State began accepting applications for passport cards after February 1, 2008, and began issuing them later that year.

<sup>4</sup> NEXUS permits pre-enrolled, low-risk travelers to avoid inspection at borders. FAST (Free and Secure Trade) is the NEXUS equivalent for commercial crossings. SENTRI is a Secure Electronic Network for Travelers Rapid Inspection card.

each when applying in person. Execution fees are not charged for passport or card applications submitted by mail.

Since January 23, 2007, all people, including children, traveling by air between the United States and Canada, Mexico, Bermuda, and the Caribbean<sup>5</sup> have been required to present a passport or other valid travel document to enter the United States. A passport is not required for U.S. citizens traveling to or from a U.S. territory, such as the U.S. Virgin Islands or Puerto Rico.

The 2007 change was poorly communicated to the American public, causing much confusion. Many Americans did not differentiate air from land and sea travel in the Western Hemisphere, resulting in many applying for passports who did not need them immediately. Furthermore, the change in passport requirements coincided with passport demands for spring break and families' summer travel plans. Based on work done for the Department of State by Bearingpoint, a private contractor that greatly underestimated passport demand,<sup>6</sup> the Department was caught off guard in meeting the unprecedented numbers of passport applications throughout 2007, causing months of delays in many cases. Because of the backlog of passports, the Department of State hired large numbers of contractors. According to State Department officials, 60% of the 4,400 passport employees were from private contractor firms.<sup>7</sup> Passport issuance in 2008 and 2009, reportedly, has been back to the usual four-to-six-week time frame for receiving passports.

## Most Recent Passport Requirement Changes

The Department of State fully implemented the final phase of passport requirements for travelers entering the United States by land and sea on June 1, 2009. Land crossing requirements were originally to take effect by December 31, 2007, but were delayed by Congress, especially because of concerns of some who represent states bordering with Canada and Mexico, as well as some with concerns about the effects on the tourism/cruise industry. Legislation changed the date for WHTI implementation at all ports of entry to either June 1, 2009, or when the Secretary of Homeland Security and Secretary of State have certified compliance with specified requirements (Section B of that Act), whichever is later.<sup>8</sup>

As of June 1, 2009, travelers must have passports for all air, land, and sea crossings. U.S. or Canadian children under the age of 16, however, are allowed to present an original or copy of their birth certificate or other proof of citizenship. Groups of U.S. or Canadian children under the age of 19, when traveling in church, school, or social groups, or sports teams, and when entering under adult supervision, also can present birth certificates or other proof of citizenship, rather than a passport.

## Passport Tips

The passport confusion that arose in 2007 resulted in straining the Department of State's ability to issue passports in a timely manner. Prior to 2007, standard passport wait times had been four to

<sup>5</sup> The Caribbean includes Anguilla, Antigua and Barbuda, Aruba, Bahamas, British Virgin Islands, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica (except for business travel), Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Turks and Caicos.

<sup>6</sup> Testimony by Assistant Secretary of State for Consular Affairs, Maura Harty, before the House Committee on Foreign Affairs, July 11, 2007.

<sup>7</sup> *Passport Backlog Put Data More in Hands of Contractors*, by Glenn Kessler, Washington Post, March 25, 2008, p. A3.

<sup>8</sup> Division E, P.L. 110-161, Department of Homeland Security Appropriations Act, FY2008, amends section 7209(b)(1) of the Intelligence Reform Act.

six weeks, but this lengthened to three or four months that year from the time of application to receipt of the passport. Following are tips to assist Americans with getting passports:

- For general information on how to apply or renew a passport and to download a passport application form, go to the State Department's website: [http://travel.state.gov/passport/passport\\_1738.html](http://travel.state.gov/passport/passport_1738.html).
- For checking the status of a passport application, go to [http://travel.state.gov/passport/get/status/status\\_2567.html](http://travel.state.gov/passport/get/status/status_2567.html).
- For information on passport post office locations, call 1-800-275-8777 or go to the U.S. Postal Service website, <http://www.usps.com/passport>, to download a passport application form and to obtain passport costs.
- The National Passport Information Center's phone number is 1-877-487-2778. It is open from 6:00 a.m. to midnight (EST) Monday through Friday, and from 9:00 a.m. to 5:00 p.m. Saturday and Sunday.
- For information on WHTI passport policy from the Department of Homeland Security, go to <http://www.dhs.gov/xtrvlsec/crossingborders/>.
- For information on implementation of passport policy at the border, see the U.S. Customs and Border Protection, Department of Homeland Security, website at <http://www.cbp.gov>.

## **Policy Concerns**

### **Two departments with passport responsibilities**

Both the Department of Homeland Security (DHS) and the Department of State (DOS) have distinct roles in passport policy. DHS is responsible for determining passport policies and regulations, whereas the State Department is responsible for implementing them. Some observers question whether having two departments involved is the most effective way to handle passport policy. Furthermore, some wonder if this dual-department approach to passport regulations and issuance may have contributed to the past-year's confusion and may create new confusion on passport changes in the future. Others believe that border security is of utmost importance to national security, and that having two agencies with passport responsibilities provides a dual layer of protection.

### **Passport cost to citizens**

Now that most Americans will need passports if they have any possibility of crossing any U.S. border, the cost of passports has become a concern to some. With the \$3 increase in fees, bringing the total passport application cost for an adult to \$100 and for children \$85, a typical family of four would have to pay \$370 to simply cross the United States border after June 1, 2009. Some who follow passport issues are concerned that this expense would be burdensome for many American families. The Department of State says that the current costs reflect the cost of doing background checks and expensive technology involved in securing identities.

### **Citizen access to passport offices**

Accessibility to passport offices is a concern of many Americans in trying to get a passport. While there are many passport offices on the East and West coasts, they are much fewer in number with more distance between in the middle of the country. According to the Department of State,

Passport Services opened a Tucson Passport Center in Arizona in 2008 and a Detroit Passport Agency in March 2009.

## Passport requirements and businesses

Businesses that are involved with cross-border trade or travel (such as cruise lines) involving the United States, Canada, Mexico, the Caribbean, and Bermuda are concerned that recent passport requirements will hinder their profits. Some Members of Congress sought to postpone passport requirements in order to delay businesses from being hurt and give them time to prepare. Senator Leahy stated, “With concerns about a recession on the way, the timing for clamping down on billions of dollars in trade and travel could not be worse.”<sup>9</sup> On the other hand, the Secretary of Homeland Security, Michael Chertoff, asserted, “It’s time to grow up and recognize that if we’re serious about this [terrorist] threat, we’ve got to take reasonable, measured, but nevertheless determined steps to getting better security.”<sup>10</sup>

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<sup>9</sup> “ID Rules to Change for Canada Crossings,” by Spencer S. Hsu, *The Washington Post*, January 22, 2008, p. A2.

<sup>10</sup> Ibid.